THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.

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BOMBAY ACT No. IV OF 1887.[1]

[THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.]

[*5th January, 1888.*]

Repealed in part, by Act 16 of 1895

Amended by Bom. 1 of 1890;
" " " 1 of 1910;
" " " 6 of 1919;
" " " 5 of 1922;
" " " 5 of 1926;
" " " 14 of 1929;
" " " 3 of 1931;
" " " 12 of 1934;
" " " 1 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 2 of 1941.*
" " " 17 of 1945.†
" " " 37 of 1947.

An Act to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the prevention of gambling in the Presidency of Bombay; It is enacted as follows :— Preamble.

1. This Act may be cited as the Bombay Prevention of Gambling Act, 1887. Short title.

It extends to the City of Bombay, to the Island of Salsette, to all [2][railways and] railway station houses without the said city and island, and to all places not more than three miles distant from any part of such station houses, respectively, and all or any of its provisions may be [3]extended from time to time by the [4][Provincial Government], by an order published in the [5][Official Gazette], to any local area in the Presidency of Bombay. Extent.

The [4][Provincial Government] may from time to time, by an order published as aforesaid, cancel or vary any order made by [6][it] under this section.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1887, Pt. IV, p. 12; for Report of the Select Committee, *see ibid*, p. 239, and for Proceedings in Council, *see ibid*, pp. 215 and 244.

[2] These words were inserted by Schedule I, Part II, Serial No. 13 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[3] For notification extending the Act, *see* Bombay Local Rules and Orders.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[5] The words "Official Gazette" were substituted for the words "Bombay Government Gazette", *ibid*.

[6] The word "it" was substituted for the word "him", *ibid*.

* This Act was re-enacted by Bom. 37 of 1947, s. 2.

† This Act has been re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

2. [*Repeal of enactments.*] *Rep. Act XVI of 1895.*

"Gaming" defined.

3. [1][In this Act "gaming" includes wagering or betting except wagering or betting upon a horse-race, when such wagering or betting takes place—

(*a*) on the day on which such race is to be run, and

(*b*) in an enclosure which the licensee of the race-course, on which such race is to be run, has set apart for the purpose under the terms of the licence issued under section 4 of the Bombay Race-Courses Licensing Act, 1912,[2] in respect of such race-course, and Bom. III of 1912.

[3](*c*) between any individual in person, being present in the enclosure, on the one hand, and such licensee or other person licensed by such licensee in terms of the aforesaid licence on the other hand [4][or between any number of individuals in person] in such manner and by such contrivance as may be permitted by such licence;

but does not include a lottery.

Any transaction by which a person in any capacity whatever employs another in any capacity whatever or engages for another in any capacity whatever to wager or bet whether with such licensee or with any other person shall be deemed to be 'gaming': Provided, nevertheless, that such licensee may employ servants, and persons may accept service with such licensee, or wagering or betting in such manner or by such contrivance as may be permitted in such licence.] [5][The collection or soliciting of bets, receipt or distribution of winnings or prizes in money or otherwise in respect of wagering or betting or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution shall be deemed to be 'gaming'.]

"Instruments of gaming" defined.

[6][In this Act the expression "instruments of gaming" includes any article used [7][or intended to be used] as a subject or means of gaming, [8][[9]* any document used [7][or intended to be used] as a register or record or evidence of any gaming] [10][the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming.]

"Common gaming-house" defined.

In this Act "common gaming-house" means a house, room or place in which [11][any] instruments of gaming are kept or used for the profit or gain of the person owning, occupying, [12][or keeping such house, room or place or of the person using such house, room or place whether he has a right to use the same or not, such profit or gain being either by way of a charge for the use of the instruments of gaming or of the house, room or place or otherwise howsoever.]]

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[1] This definition was substituted by s. 2 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

[2] *Infra.*

[3] Clause (*c*) was substituted for the original clause by Bom. 3 of 1931, s. 2.

[4] These words were inserted by Bom. 12 of 1934, s. 2.

[5] These words were inserted by Bom. 1 of 1936, s. 2 (*1*).

[6] This definition was inserted by s. 1 of the Act to amend the Bombay Prevention of Gambling Act, 1890 (Bom. 1 of 1890.)

[7] The words "or intended to be used" were inserted by Bom. 1 of 1936, s. 2 (*2*) (*i*).

[8] These words were added by s. 2 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

[9] The word "and" was omitted by Bom. 1 of 1936, s. 2 (*2*) (*ii*).

[10] These words were added, *ibid*, s. 2 (*2*) (*iii*).

[11] This word was substituted for the words "cards, dice, tables, or other" by s. 2 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

[12] This portion was substituted by Bom. 2 of 1941, s. 2, read with Bom. 37 of 1947, s. 2.

Keeping common gaming-house.

4. Whoever—

(*a*) [1][opens, keeps or uses any house, room or place], for the purpose of a common gaming-house,

(*b*) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(*c*) has the care or management of, or in any manner assists in conducting the business of, any such house, room or place opened, occupied, kept or used for the purpose aforesaid,

(*d*) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room or place,

[2][shall, on conviction, be punishable with imprisonment which may extend to six months and with fine :

Provided that—

(*a*) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees ;

(*b*) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees ; and

(*c*) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.]

Gaming in common gaming-houses.

5. [3][Whoever is found in any common gaming-house gaming or present for the purpose of gaming, [4][shall, on conviction, be punishable with imprisonment which may extend to six months and with fine :

Provided that—

(*a*) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees ;

(*b*) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees ; and

(*c*) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.]

Any person found in any common gaming-house during any gaming [5]* * therein shall be presumed, until the contrary [6][is proved], to have been there for the purpose of gaming.

Entry, search, etc., by police officers in gaming-houses.

[7]**6.** It shall be lawful for a Police officer—

(*i*) in [8][the Greater Bombay] not below the rank of a Sergeant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, and

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[1] These words were substituted by Bom. 2 of 1941, s. 3 read with Bom. 37 of 1947, s. 2.
[2] This portion was substituted by Bom. 37 of 1947, s. 3.
[3] This paragraph was substituted by s. 3 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).
[4] This portion was substituted by Bom. 37 of 1947, s. 4.
[5] The words "or playing", were repealed by s. 3 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).
[6] The words "is proved" were substituted for the words "be made to appear" by Bom. 1 of 1936, s. 4 (*3*).
[7] Section 6 was substituted for the original section, *ibid*, s. 5.
[8] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

(*ii*) elsewhere not below the rank of a Sub-Inspector of Police authorised by special warrant issued in each case by a Magistrate of the First Class or a District Superintendent of Police or by an Assistant or Deputy Superintendent of Police specially empowered by [1][the Provincial Government] n this behalf,—

(*a*) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used as a common gaming-house,

(*b*) to search all parts of the house, room or place which he shall have so entered, when he shall have reason to suspect that any instruments of gaming are concealed therein, and also the persons whom he shall find therein whether such persons are then actually gaming or not,

(*c*) to take into custody and bring before a Magistrate all such persons,

(*d*) to seize all things which are reasonably suspected to have been used or intended to be used for the purpose of gaming, and which are found therein :

Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, the District or Assistant or Deputy Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he may think necessary, that there are good grounds to suspect the said house, room or place to be used as a common gaming-house.

Presumptive proof of keeping or gaming in common gaming-house.

[2]**7.** When any instrument of gaming has been seized in any house, room or place entered under section 6 or about the person of any one found therein, and in the case of any other thing so seized if the court is satisfied that the Police officer who entered such house, room or place had reasonable grounds for suspecting that the thing so seized was an instrument of gaming, the seizure of such instrument or thing shall be evidence, until the contrary is proved, that such house, room or place is used as a common gaming-house and the persons found therein were then present for the purpose of gaming, although no gaming was actually seen by the Magistrate or the Police officer or by any person acting under the authority of either of them.

On conviction for keeping or gaming in common gaming-house, instruments of gaming may be destroyed.

8. On conviction of any person for opening, keeping or using a common gaming-house, [3]* * or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein or on the persons of those who were found therein, to be forthwith destroyed [4][or forfeited],

and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof, with all moneys seized therein, to be forfeited ; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

Proof of playing for money not required for conviction.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found [5][gaming] was playing for any money, wager or stake.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Section 7 was substituted for the original section by Bom. 1 of 1936, s. 6.

[3] The words "or playing" were repealed by s. 5 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

[4] The words "or forfeited" were added by Bom. 1 of 1936, s. 7.

[5] This word was substituted for the words "playing at any game" by s. 6 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

Indemnification of persons concerned who are examined as witnesses.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Payment of portion of fine to informer.

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth, of any fine which may be levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, [1][to be sent in [2][the Greater Bombay] to the Commissioner of Police and elsewhere to the District Superintendent of Police for distribution as reward in such manner as he may think proper, among the persons, not being Police officers, who may have given assistance in the detection or investigation of the offence:]

Power to arrest without warrant for gaming, and setting birds and animals to fight in public streets.

12. A Police-officer may apprehend [3][and search] without warrant—

(*a*) any person found [4][gaming] [5][or reasonably suspected to be gaming] in any public street, [6][or thoroughfare, or in any place to which the public have or are permitted to have access] [7][or in any race-course];

(*b*) any person setting any birds or animals to fight in any public street, [6][or thoroughfare, or in any place to which the public have or are permitted to have access];

(*c*) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be [8][punishable] with fine which may extend to [9][three hundred rupees], or with imprisonment which may extend

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[1] These words were substituted for the words " to be paid to an informer " by Bom. 1 of 1936, s. 8.

[2] These words were substituted for the words " the City of Bombay " by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words " and search " were inserted by s. 9 (*1*) of Bom. 1 of 1936.

[4] This word was substituted for the words " playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill " by s. 7 of the Bombay Prevention of Gambling (Amendment) Act, 1919 (Bom. 6 of 1919).

[5] The words " or reasonably suspected to be gaming " were inserted by Bom. 1 of 1936, s. 9 (*2*).

[6] These words were substituted for the words " place or thoroughfare " by Schedule I, Part II, Serial No. 14 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[7] These words were added by s. 4 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

[8] The word " punishable " was substituted for the word " punished " by Bom. 1 of 1936, s. 9 (*3*).

[9] The words " three hundred rupees " were substituted for the words " fifty rupees ", *ibid*, s. 9 (*4*).

to [1][three months] [2][and where such gaming consists of wagering or betting or of any such transaction as is referred to in the definition of gaming given in section 3, any such person so found gaming shall, on conviction, be [3][punishable] in the manner and to the extent referred to in section 4, and all moneys found with such person shall be forfeited.]

Seizure and destruction of instruments found.

And such Police-officer may seize all birds and animals and [4][things reasonably suspected to be instruments of gaming] found in such public street, [5][thoroughfare, [6][place or race-course]] or on [7][or about] the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited. [8][When any thing has been found on or about any person and a court is satisfied that the Police-officer had reasonable grounds for suspecting that such thing was an instrument of gaming, such circumstance shall, until the contrary is proved, be evidence that such thing was an instrument of gaming and that the person on or about whom the thing was found was present for the purpose of gaming.]

Power to arrest without warrant for printing, publishing or distributing any news or information.

[9]**12A.** A Police-officer may apprehend without warrant any person who prints, publishes, sells, distributes or in any manner circulates any newspaper, newssheet or other document or any news or information with the intention of aiding or facilitating gaming.

Any such person shall, on conviction, be punishable in the manner and to the extent referred to in section 4.

And any police officer may enter and search any place for the purpose of seizing, and may seize all things reasonably suspected to be used or to be intended to be used, for the purpose of committing an offence under this section.

Saving of games of mere skill.

13. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

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[1] The words "three months" were substituted for the words "one month" by Bom. 1 of 1936, s. 9 (*5*).

[2] These words were added by s. 4 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

[3] The word "punishable" was substituted for the word "punished" by Bom. 1 of 1936, s. 9 (*3*).

[4] These words were substituted for the words "instruments of gaming", *ibid*, 9 (*6*).

[5] These words were substituted for the words "place or thoroughfare" by Schedule I, Part II, Serial No. 14 of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

[6] These words were substituted for the words "or place" by s. 4 of the Bombay Prevention of Gambling (Amendment) Act, 1922 (Bom. 5 of 1922).

[7] The words "or about" were inserted by Bom. 1 of 1936, s. 9 (*6*).

[8] This paragraph was added, *ibid*, s. 9 (*7*).

[9] Section 12A was inserted, *ibid*, s. 10.

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by Act XVI of 1895.